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Attorney for Defendant
Defendant Dick Morganti Nibbi JV

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CAROLYN WESLEY

Plaintiff,

vs.

DICK MORGANTI NIBBI JV, THE
UNITED STATES OF AMERICA, and
DOES 1 to 100

Defendants

Case No.: C 07-00006 JCS

STIPULATION FOR CONTINUANCE OF
CASE MANAGEMENT CONFERENCE FROM
APRIL 20, 2007 TO JULY 27, 2007

Pursuant to Rule 6(a)(2) of the Civil Local Rules of the Northern District of California, Plaintiff Carolyn Wesley and Defendant Dick Morganti Nibbi JV (hereinafter "Defendant"), enter the following stipulation to continue the Case Management Conference set for April 20, 2007 to July 27, 2007, and to vacate and reschedule the Court's Amended Order Setting Initial Case Management Conference and ADR Deadlines (including meet and confer, initial disclosure and discovery plan requirements) filed January 7, 2007.

1. This action concerns a trip and fall incident that occurred on the sidewalk on the east side of Seventh Street, north of Mission Ave., in the city of San Francisco. Plaintiff contends she tripped as a result of an open tree grate on the sidewalk adjacent to the Federal

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1 Court of Appeal Building. Defendant is the general contractor for the construction of a Federal
2 office building that is being built on the west side of Seventh Street. Defendant denies
3 performing work on the east side of Seventh Street.

4 2. On November 12, 2006, Plaintiff presented a claim for damages to the United
5 States Government Services Administration, GSA Pacific Rim Region. GSA has six months (28
6 USC 2675) to investigate and respond to the claims, and has not yet responded to the claim.

7 3. On January 3, 2007, Plaintiff filed the present lawsuit in the United States District
8 Court, Northern District of California. The complaint named as defendants the general
9 contractor and the United States of America.

10 4. At the time the complaint was filed a Case Management Conference was set for
11 April 20, 2007 at 1:30 p.m.

12 5. Plaintiff has recently learned that it was improper to name the United States as a
13 defendant because the claims presentation period has expired. On or about March 21, 2007,
14 voluntary dismissal, without prejudice, of defendant United States was filed by Plaintiff.

15 6. Plaintiff understands the earliest deadline for GSA to respond to the claim for
16 damages is May 12, 2007. (However, it is not clear whether the six month requirement of 28
17 USC 2675 was tolled during the time the herein case was on file, in which case the parties *may*
18 need to return to this court with yet another stipulation.) Once the claim has been rejected by the
19 appropriate Federal agency, the Government Services Agency (GSA) in this instance; thereafter,
20 Plaintiff is entitled to file an amendment to the pending action that adds the United States as a
21 defendant or file a new action and request joinder of the two actions.

22 7. It is not feasible to conduct the Case Management Conference as presently set on
23 April 20, 2007 because of jurisdiction issues and the fact one of the defendant cannot be a party
24 to the action until the claim presentation requirement is completed.

25 8. Plaintiff and Defendant request the court continue the Case Management
26 Conference for at least 3 months to allow the claims presentation process to be completed. By
27 that date, Plaintiff hopes to have completed the administrative claims process. Assuming the
28

1 GSA rejects the Claim, Plaintiff will be able to proceed and name the United States as a
2 defendant.

3 9. The continuance of the Case Management Conference for 3 months will eliminate
4 the need for the case to be transferred to state court and then retransferred back when the United
5 States is named as a defendant.

6 10. The parties are requesting the continuance of the Case Management Conference
7 in order to address the procedural issues that have arisen due to the claims presentation
8 requirements and not to delay the resolution of this matter.

9 11. In the alternative, the parties request an early chambers meeting with the Court to
10 explain the need for this stipulation and order. Mr. Renberg requests approval for a telephonic
11 appearance at such early conference.

12 IT IS SO STIPULATED

13 Dated: March 23, 2007

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16 By Michael L. Renberg
17 MICHAEL L. RENBERG
18 Attorneys for Defendant
Dick Morganti Nibbi JV

19 Dated: March 23, 2007

DU CHARME & COHEN

21 By A. Du Charme
22 James A. Du Charme
23 Attorneys for Plaintiff
24 Carolyn Wesley

25 The Court, upon review of this stipulation and good cause appearing APPROVES the
26 stipulation to continue the Case Management Conference and enters the following ORDER:

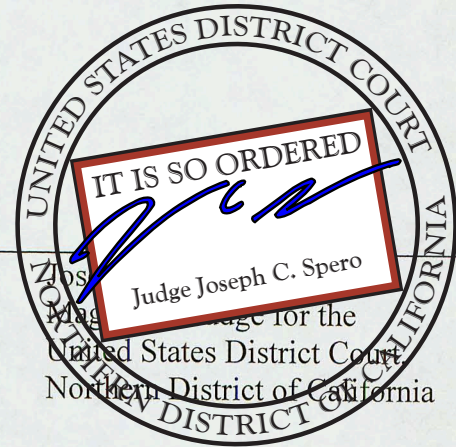
27 1. The Case Management Conference set for April 20, 2007 at 1:30 p.m. is
28 continued to July 27, 2007 at 1:30 p.m. The Court's Amended Order Setting Initial Case

1 Management Conference and ADR Deadlines (including meet and confer, initial disclosure and
2 discovery plan requirements) filed January 7, 2007, is vacated.

3 2. The Joint Case Management Statement required by Local Rule 16-9 and the
4 standing order for all judgment of the Northern District of California shall be filed no later than
5 July 20, 2007

6
7 Dated: 3/28, 2007

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10 By



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